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SOUTHERN RHODESIA.

DESPATCH

TO THE

HIGH COMMISSIONER FOR SOUTH AFRICA

TRANSMITTING

Draft Letters Patent providing for the constitution
of Responsible Government in the Colony of
Southern Rhodesia, and other draft Instruments
connected therewith.

Presented to Parliament by Command of His Majesty.

January, 1922.



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[Cmd. 1573.]

DESPATCH

TO THE

HIGH COMMISSIONER FOR SOUTH AFRICA

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Draft Letters Patent providing for the constitution of Responsible Government in the Colony of Southern Rhodesia, and other draft Instruments connected therewith.

SOUTH AFRICA.

SOUTHERN RHODESIA.

DOWNING STREET,
22nd December, 1921.

SIR,

I have the honour to transmit to Your Royal Highness copies of the following draft Instruments :—

- (a) Draft Order in Council annexing the Territory of Southern Rhodesia.
 - (b) Draft Letters Patent providing for the constitution of Responsible Government in the Colony of Southern Rhodesia.
 - (c) Draft Letters Patent constituting the office of Governor.
 - (d) Draft Instructions to the Governor.
2. These drafts are in the form in which I have determined them after hearing the views of the Delegation of Elected Members, and of the British South Africa Company.
3. Drafts (c) and (d) are adapted from the forms used in granting responsible government to the Transvaal in 1906, and do not, I think, call for any explanation. Draft (a) and the main draft (b) are based on the recommendations contained in the first report* of Lord Buxton's Committee. The origin of the various clauses of draft (b) is shown in the marginal references ; I need, therefore, only refer to such points as require special comment.

4. Clause 1 relating to the future Legislature has been drafted so as to enable the Legislative Council now subsisting to function, if required, during the short period between the coming into force of the Letters Patent, as provided in Clause 63, and the date of nomination of candidates for the first elections to the new Legislative Assembly. This period could not be more than about five months, since the first session must be held within six months of the commencement of the Letters Patent (Clause 16 (2)). The Legislature would be, in the first place, unicameral, as proposed by Lord Buxton's Committee, but Clause 2 provides for the future constitution of a second Chamber.

* [Cmd. 1273.]

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5. Clause 6 applies the existing electoral laws generally, subject to such amendments as might in the future be made by the Legislature. In the course of the discussion with the Delegation a suggestion was made that provision should be made for a system of proportional representation, but I have not felt able to introduce an electoral change of this importance into the Letters Patent. The matter is one which could, of course, be dealt with by the new Legislature.

6. The question has been considered in connection with Clause 8 whether provision should not be made for the automatic redivision of the Colony into electoral divisions at stated periods, as was done in the Transvaal Letters Patent of 1906. There is much to be said for this proposal, but the question is one which I would in the circumstances rather leave to the new Administration. I have, therefore, thought it preferable not to provide for this in the Letters Patent.

7. Under Section 28, relating to the class of Bills to be reserved, it will be seen that the Governor will be required to reserve any law altering or amending the arrangements relating to the collection and allocation of mining revenue in force at the commencement of the Letters Patent under any existing law or otherwise or any law imposing any special rate, tax, or duty, on minerals in or under land within the Colony. In making this provision it is not intended to suggest that the Company's mineral rights would not be fairly treated by the new Administration. His Majesty's Government feel, however, that the position of the British South Africa Company in regard to the minerals is in two respects special. First, there is the pronouncement of the Judicial Committee of the Privy Council as to the connection between the existence of these mineral rights and the absence of any provision for the remuneration of the Company for its administrative services, and secondly, there is the arrangement as to the allocation of mining revenue adopted by Lord Cave's Commission, as set out in the despatch of the 17th March, 1921, printed at p. 20 of [Cmd. 1273]. These considerations have led me to insert clause 28 (d) in the draft.

8. Clause 28 (e) deals with a matter which has required and has received my most careful consideration, namely, the position of the existing railways in relation to the general powers of legislation conferred by the Letters Patent.

I have no reason to anticipate, and I fully accept the assurance which I have received from the Delegation on this head, that these powers would be exercised in any spirit but that of complete goodwill towards enterprises which have contributed in so large a measure to the development of Rhodesia, and now play so important a part in the scheme of Imperial communications. But I have been deeply impressed by two features of the situation :—first, the magnitude of the investment made by the British South Africa Company in the railways, and the very heavy burden of financial obligation assumed by the British South Africa Company in the guarantees which they have given to the Debenture holders; and secondly, the absence of anything like a code of railway legislation, determining the relative rights of the railway proprietors and the general community. If such legislation had existed, the claim of the British South Africa Company

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to the recognition of its special position in relation to the railways might well have been left to the general powers of protection conferred upon the Imperial authorities by the Letters Patent. The new Legislature should not, I think, find it difficult to frame suitable legislation having regard to the experience of this country in dealing with private Railway Companies and to the assistance which they would derive from a study of the legislation in force here, and after careful consideration of all the circumstances I have come to the conclusion that the requirements of the case would be met by providing for the reservation of any law dealing with railways in the Colony, until legislation shall have come into force in Southern Rhodesia adopting so far as may be applicable the provisions of the law in force in the United Kingdom relating to the Railway and Canal Commissioners and to the Rates Tribunal provided for by the Railways Act, 1921.

This course, whilst not affecting the general right of the new Colony to legislate in connection with railways, in the interests of law, order, and good government, would afford the Company the same measure of protection to its railway rights as exists in similar cases in the United Kingdom.

9. In connection with Clause 38. I may observe that I am advised that no special provision is necessary to preserve the present system of appeals from the High Court of Southern Rhodesia to the Appellate Division of the Supreme Court of South Africa, since this matter is dealt with in Section 103 of the South Africa Act, 1909. It may be noted, however, that there would be nothing to prevent the new Administration legislating under a particular Act for direct appeal from the High Court to the Privy Council in a new class of civil cases in which under the law in force at the establishment of the Union there was no appeal to the Supreme Court of the Cape.

10. The Clauses relating to Native Administration (39-47) are designed to preserve the essential features of the existing system of native administration which has worked satisfactorily in the past. Provision has also been made for the possible future establishment of Native Councils in the Reserves on the lines of the recent Union Act 23 of 1920. In connection with Clause 43, the Rhodesian Delegation suggested that specified districts should be set aside by the High Commissioner in which natives alone might acquire land and within which Europeans should not be allowed to do so. I have informed the delegates that the existing clause enshrines a long accepted principle and that I should be unwilling to agree to an alteration, the corollary of which seems to be the exclusion of natives from other areas; but that if full and impartial enquiry should show, after responsible government had come into force, that some amendment of the law is necessary, His Majesty's Government would be prepared to consider an amendment.

11. Clause 48 deals with the unalienated lands and provides for the appointment of a Crown Land Agent (assisted by an Advisory Board), who is empowered to dispose of the lands at such prices as may in all the circumstances be in his opinion fair and reasonable, the revenue derived therefrom being paid to the British South Africa Company

so long as any part of the debt due to the Company on account of the administrative deficit remains unpaid. The Clause has been drawn in this form since the British South Africa Company objected to the proposal made by Lord Buxton's Committee for the establishment of a Land Board. The Company maintain, indeed, that the Clause is inconsistent with their rights under the Privy Council judgment, but this view is regarded by the Legal Advisers of the Crown as without foundation.

12. Clause 51 states that in the event of any moneys being provided by the Lords Commissioners of the Treasury for the payment of compensation to the British South Africa Company in respect of any buildings and works which may be taken over in accordance with provisions of Article 33 of the Company's Charter, the Consolidated Revenue Fund would be charged with all such moneys together with interest at a rate to be fixed by the Treasury, and all such moneys and interest should be repaid not later than one year after the commencement of the Letters Patent. As was explained in Lord Milner's memorandum of December, 1920,* it is considered that this is an obligation which must clearly devolve upon the new Administration, who will also, of course, have to repay any of the annual loans of £150,000 which His Majesty's Government may advance pending the grant of responsible government. I am advised that in the case of the movable assets, which are also referred to in Lord Milner's memorandum, the property in these will pass to the Crown on the termination of the Company's administration, without the necessity for any payment in cash, the cost being included in the administrative deficits. Similarly, as regards debtor balances and creditor balances, these will be added to or deducted from the administrative deficits. I shall no doubt have to address you further on this subject in due course.

13. Clauses 56 and 57 deal with the position and pension rights of the public officers of the territory. In framing these clauses I have given careful consideration to the representations made on behalf of the Southern Rhodesian Civil Service and the Police, and I am confident that the clauses should adequately secure the rights of public servants.

14. The only other matter I need refer to is the question which has been raised whether, in the event of the grant of responsible government to Southern Rhodesia, certain other territories should be admitted, viz., the railway strip in Northern Rhodesia and the Tati district in the Bechuanaland Protectorate. I am advised, however, that these territories could, if it is found desirable, be added to Southern Rhodesia after annexation, under the Colonial Boundaries Act, and no special provision in the Letters Patent is necessary.

15. These Letters Patent, if finally adopted, would, in the view of His Majesty's Government, confer on the people of Southern Rhodesia a full and satisfactory control of their government and administration subject only to the reservations which the peculiar history of the country imposes. They embody a policy which, if the people of Southern Rhodesia should decide ultimately to adopt it. His Majesty's

* Appendix II in [Cmd. 1273.]

Government would be ready to carry out. There is, however, an alternative policy—that of entry into the South African Union, which the people of Southern Rhodesia must also consider, and since the South Africa Act has not defined the conditions of entry it is my intention that a delegation should be appointed to confer with General Smuts for the purpose of ascertaining the exact terms on which Southern Rhodesia could enter the Union. When these terms have been ascertained, and a sufficient time has elapsed for consideration and public discussion on these alternative policies, it is my view that the people of Southern Rhodesia should declare their opinion by means of a Referendum which would place both policies before them. The precise form of the Referendum need not be determined at this stage.

16. You should cause this despatch and the enclosures to be published in such form as may seem to you to be most convenient.

I have, etc.,

WINSTON S. CHURCHILL.

HIGH COMMISSIONER

MAJOR-GENERAL HIS ROYAL HIGHNESS

PRINCE ARTHUR OF CONNAUGHT,

K.G., K.T., G.C.M.G., G.C.V.O., C.B.,

ETC., ETC., ETC.

ENCLOSURE No. I.

—
SOUTHERN RHODESIA.*(Draft Order in Council Annexing the Territory.)*

WHEREAS the Territories in South Africa situate within the limits of the Southern Rhodesia Order in Council 1898 and known as Southern Rhodesia are under the protection of His Majesty the King :

And Whereas British subjects have settled in large numbers in the said Territories and it is expedient, with a view to the further development and more convenient administration of the said Territories, that they should be annexed to and should henceforth form part of His Majesty's Dominions :

Now, Therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. *Title of Order.*—This Order may be cited as the Southern Rhodesia (Annexation) Order in Council, 192 .

2. *Limits of Order.* [See *Southern Rhodesia Order in Council 1898, Sec. 4.*]—Until further provision shall be made in respect thereof, the limits of this Order are the parts of South Africa bounded by the Portuguese Possessions, by the Union of South Africa to a point opposite the mouth of the River Shashi, by the River Shashi to its junction with the Tati and Ramaquaban rivers, thence by the Ramaquaban river to its source, thence by the watershed of the rivers Shashi and Ramaquaban until such watershed strikes the Hunters' Road (called the Pandamatenga road) thence by that road, to the River Zambesi, and by that river to the Portuguese boundary. The said limits include an area of ten miles radius round Fort Tuli, but exclude the area of the district known as the Tati district as defined by the Charter of the 29th day of October, 1889, incorporating the British South Africa Company.

3. *Annexation. Name of Colony.*—From and after the coming into operation of this Order the said Territories shall be annexed to and form part of His Majesty's Dominions, and shall be known as the Colony of Southern Rhodesia, hereinafter called the Colony.

4. *Validity of Orders in Council, etc., and of Acts done thereunder.*—Nothing in this Order shall affect the validity of any Order in Council affecting the said Territories, or of any Ordinance, Proclamation or Regulations passed or issued under any such Order, or of any act or thing done under any such Order, Ordinance, Proclamation or Regulations, save in so far as any provision of any such Order, Ordinance, Proclamation or Regulations may be repugnant to the provisions of any Act of Parliament which may, by reason of the annexation hereby declared, become extended to the Colony or to any Order or Regulation made under the authority of any such Act or having in the Colony the force and effect of any such Act.

5. *Commencement of Order.*—This Order shall be published in the Official Gazette of Southern Rhodesia, and shall thereupon commence and come into operation, and the High Commissioner shall give directions for the publication of this Order at such places and in such manner, and for such time or times, as he thinks proper for giving publicity thereto within the Colony.

6. *Power to revoke, etc.*—His Majesty may from time to time revoke, alter, add to, or amend this Order.

And the Right Honourable Winston Spencer Churchill, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

ENCLOSURE No. II.

DRAFT.

SOUTHERN RHODESIA CONSTITUTION.

*Abbreviations in marginal references.**

- N. = Natal Constitution Act, 1893.
 T. = Transvaal Constitution Letters Patent, 1906.
 M. = Malta Constitution Letters Patent, 1921.
 S.R. = Southern Rhodesia Order in Council, 1898.
 Report = First Report of Lord Buxton's Committee. [Cmd. 1273.]

LETTERS PATENT providing for the constitution of Responsible Government in the Colony of Southern Rhodesia.

GEORGE THE FIFTH by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, unto all to whom these presents shall come Greeting.

Recites Southern Rhodesia Order in Council 1898 and Amending Orders.—Whereas by the Southern Rhodesia Order in Council 1898, as added to altered or amended by divers further Orders in Council provision was made for the administration of the government of certain territories of Africa under Our protection and known as Southern Rhodesia :

Recites Southern Rhodesia (Annexation) Order in Council 192.—And whereas by an Order in Our Privy Council bearing date the day of 192 , and known as the Southern Rhodesia (Annexation) Order in Council 192 it is provided that the territories within the limits of the Southern Rhodesia Order in Council 1898 and known as Southern Rhodesia, shall, from and after the coming into operation of the said Order, be annexed to and form part of Our Dominions, and shall be known as the Colony of Southern Rhodesia :

And whereas the said Order in Council was published in the official Gazette of Southern Rhodesia on the day of 192 , and thereupon commenced and came into operation :

And whereas We are minded to provide for the establishment of Responsible Government, subject to certain limitations hereinafter set forth, in Our said Colony :

Now know ye that We do declare Our will and pleasure to be as follows—

THE LEGISLATURE.

1. *The Legislature.*—In place of the Legislative Council now subsisting there shall be a Legislature consisting of a Legislative Council and Legislative Assembly, constituted as hereinafter provided.

Subject to the provisos hereinafter contained, the constitution, appointment and powers of the Legislative Council now subsisting shall continue in force until the date of the nomination of Members for election to the Legislative Assembly, and no longer. (**T. 1.N. 3.**)

Provided however that until the said date (**New**) :—

- (a) The persons other than the Administrator who at the commencement of these Our Letters Patent are Members of the said Legislative Council now subsisting shall continue to be Members thereof;
- (b) The Governor of the Colony shall be a Member of the said Council in place of the Administrator, and shall preside at the meetings thereof, and in his absence such other Member of the said Council as may be appointed in writing by the Governor shall preside;
- (c) The power of the British South Africa Company to remove or suspend nominated Members of the said Council shall be vested in the Governor, and whenever the seat of a nominated Member becomes vacant by death, resignation or removal, the Governor shall appoint a successor.

* These are printed here in black type at the end of the paragraphs.

THE LEGISLATIVE COUNCIL.

2. *Legislative Council. Constitution.*—It shall be lawful at any time after the commencement of these Our Letters Patent for the Legislative Assembly to pass a law, subject as hereinafter provided, constituting the Legislative Council, and until any such law shall have been passed and brought into operation the Legislative Assembly shall be for all purposes the Legislature within the meaning of these Our Letters Patent. (*See Report*, § 60 (b).)

THE LEGISLATIVE ASSEMBLY.

3. *Legislative Assembly. Constitution. Election of Members.*—The Legislative Assembly shall consist of _____ Members who shall be elected by the voters in and for the several electoral districts as hereinafter defined, and for the purpose of constituting the Legislative Assembly the Governor, before the time appointed for the first meeting thereof, and thereafter from time to time as occasion shall require, and without undue delay, may in Our name issue writs under the Public Seal of the Colony for the general election of Members to serve in the Legislative Assembly. (T. 8. N. 22 & 23.)

4. *Qualifications and disqualifications of voters.*—The qualifications and disqualifications of persons to be voters at any election of Members of the Legislative Assembly to be held under the provisions of these Our Letters Patent shall be those prescribed by the existing electoral laws of the Colony, as hereinafter defined, or by any laws amending or substituted for the same hereafter to be passed by the Legislature constituted by these Our Letters Patent. (*See Report*, § 60 (b).)

5. *First elections.*—(1) For the purpose of the first election of Members of the Legislative Assembly, to be held under the provisions of these Our Letters Patent, the voters shall be the persons whose names appear on the register hereinafter mentioned. (T. 11 (1), as modified in M. 15 (1).)

(2) For the purpose of the said first election the electoral districts shall be those constituted under the existing electoral laws of the Colony for the purpose of the election of Members of the subsisting Legislative Council. It shall be lawful for the Governor by Proclamation published in the Gazette to declare what number of Members shall be elected to the Legislative Assembly for each district and where more than one Member is to be returned for any district to make any necessary amendments in the existing electoral laws of the Colony with regard to the method of voting and the general conduct of the election. (M. 15 (2). Cf. S.R. 18.)

(3) For the purpose of the said first election the Governor shall as soon as practicable after the date of the commencement of these Our Letters Patent cause lists of voters resident in each such electoral district at that date to be compiled in accordance with the existing electoral laws of the Colony, and the lists so compiled shall constitute the register of voters for the said first election. (T. 11 (2) as modified in M. 15 (4).)

6. *Application of existing electoral laws for purposes of elections generally.*—Subject to the provisions of the last preceding section the registration of voters, the preparation of lists of voters, the nomination of candidates, the conduct of elections and the hearing of election petitions shall be carried out in accordance with the existing electoral laws of the Colony, or any laws amending or substituted for the same hereafter to be passed by the Legislature constituted by these Our Letters Patent. (T. 12. N. 24. M. 19.)

7. *Biennial computation of voters.*—For the purposes of the computation hereinafter provided for, every Registering Officer in the Colony shall, from time to time, between the completion of one registration of voters and the date fixed for the next registration under the existing electoral laws of the Colony, insert in the alphabetical list of persons resident within his area who are within his judgment entitled to be registered, the name of any person who since the completion of the said first mentioned registration shall claim to have, and who in the judgment of the Registering Officer has, become entitled to be registered as aforesaid, and at the end of every two years there shall be a computation of the total number of persons inserted in the list for every such area. The first

computation shall be made not later than the last day of December, 1921.
(*Now, cf. T. 13.*)

8. *Redivision of Colony into electoral districts.*—Upon the completion of the first biennial, and thereafter of every alternate biennial computation, as aforesaid, it shall be lawful for the Legislature by an Act to be passed for that purpose if required by the growth or distribution of the population to redivide Southern Rhodesia into electoral districts for the purpose of the election of Members of the Legislative Assembly, and by such Act to determine the number of Members to be returned for each such electoral district. (*T. 14 as modified in M. 24.*)

9. *When redivision of Colony to come into operation.*—Any redivision of the Colony made as aforesaid shall come into operation at the next general election held after the completion of the redivision, and not earlier. (*T. 17.*)

10. *Qualification of Members of Legislative Assembly.*—Until otherwise provided by the Legislature constituted by these Our Letters Patent, persons qualified under the existing electoral laws of the Colony to become Members of the Legislative Council now subsisting shall be qualified to become Members of the Legislative Assembly. (*N. 23 ad finem.*)

11. *Speaker and Deputy Speaker of Legislative Assembly.*—The Legislative Assembly shall, on their first meeting, before proceeding to the dispatch of any other business, elect one of their Members to be Speaker and another to be Deputy Speaker and Chairman of Committees (hereinafter called the Deputy Speaker) of the said Assembly (subject in both cases to confirmation by the Governor) until the dissolution thereof, and in case of vacancy in either office another Speaker or Deputy Speaker, as the case may be, shall be elected in like manner and subject to such confirmation as aforesaid. (*T. 19 (1) as modified in M. 16 (1). N. 28.*)

12. *Speaker to preside.*—The Speaker, or in his absence the Deputy Speaker, and in the absence of both Speaker and Deputy Speaker some Member elected by the Legislative Assembly, shall preside at the Meetings thereof. (*T. 20 as modified in M. 16 (2). N. 29.*)

13. *Quorum.*—The Legislative Assembly shall not be disqualified from the transaction of business on account of any vacancies among the Members thereof, but the said Assembly shall not be competent to proceed to the despatch of business unless Members be present. (*T. 21. N. 30.*)

14. *Resignation of seat in Legislative Assembly.*—Any Member of the Legislative Assembly may resign his seat therein by writing under his hand addressed to the Speaker, and upon the receipt of such resignation by the Speaker the seat of such Member shall become vacant: (*T. 22. N. 35.*)

Provided that no Member shall, without the permission of the Legislative Assembly, resign his seat while any proceedings are pending in respect of his election if it is alleged in those proceedings that any corrupt or illegal practices took place at that election, or while any proceedings are contemplated or pending in respect of his conduct in, or as a Member of, the Legislative Assembly. (*cf. M. 34.*)

15. *Writs for filling vacancies.*—(1) Whenever a vacancy occurs in the Legislative Assembly from any cause, other than as the result of an election petition, the Speaker shall, upon a resolution of the said Assembly declaring such vacancy, inform the Governor thereof. (*T. 23. N. 36 and 37.*)

(2) Provided that if such vacancy occurs when the Legislative Assembly is not in session, the Speaker, or in the case of the death, incapacity, or absence from the Colony of the Speaker, the Clerk to the Assembly, *shall, on a certificate under the hands of two Members of the Assembly, stating that such vacancy has occurred and the cause thereof, inform the Governor thereof. (**Cf. M. 36 (2).*)

(3) The Governor on receiving such information shall §without delay cause the necessary steps to be taken for filling such vacancy in accordance with the Law for the time being in force in the Colony under the provisions of Section 6 of these Our Letters Patent. (*T. 23 (3) as modified in M. 36 (3).*) (§*Cf. N. 34.*)

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY.

16. Sessions of Legislature.—(1) There shall be a Session of the Legislature once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Legislature in one Session and the first sitting thereof in the next Session.

(2) The first Session shall be held within six months of the date when these Our Letters Patent shall commence to take effect. (T. 24. N. 12.)

17. Place and time of holding Sessions of Legislature.—The first and every other Session of the Legislature shall be held in such place and at such time as may be notified by the Governor by Proclamation in the Gazette. (T. 25 as modified in M. 3. N. 13.)

18. Prorogation and dissolution of Legislative Council and Legislative Assembly.—(1) The Governor may from time to time prorogue the Legislature by Proclamation, which shall be published in the Gazette, and may in like manner, whenever he shall think fit, dissolve the Legislative Council and the Legislative Assembly simultaneously, or the Legislative Assembly alone.

(2) The Governor shall dissolve the Legislative Council and the Legislative Assembly at the expiration of five years from the date of the first meeting thereof. (T. 26 as modified in M. 4. N. 13 and 25.)

19. Governor may transmit Bills to Legislature.—The Governor may transmit by Message to the Legislative Council and the Legislative Assembly the draft of any Bill which it may appear to him desirable to introduce, and all such drafts shall be taken into consideration by the said Council and Assembly, as the case may be, in such convenient manner as shall be provided in that behalf by Rules of Procedure. (T. 27. N. 26.)

20. Oath to be taken by Members of Legislature.—(1) Every Member of the Legislative Council and Legislative Assembly shall, before being permitted to sit or vote therein, take and subscribe the following oath before the President or Speaker respectively, or before such person as may be appointed thereto by the Governor should such oath be required to be taken before the appointment or election of a President or Speaker as the case may be:—

“I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King George the Fifth, his heirs and successors, according to Law, So help me God.”

(2) Provided that any person authorized by law to make a solemn affirmation or declaration instead of taking an oath, may make such affirmation or declaration in lieu of such oath. (T. 28. N. 27.)

21. Questions to be decided by majority of votes.—Subject to the provisions contained in Section 26 of these Our Letters Patent, all questions in the Legislative Council or Legislative Assembly shall be determined by a majority of the votes of Members present, other than the President, Speaker, or presiding Member, who shall, however, have and exercise a casting vote in case of an equality of votes. (T. 29 as modified in M. 28. N. 31.)

22. Member's seat in Legislature, how vacated.—If any Member of the Legislative Council or Legislative Assembly (T. 30 as modified in M. 32. N. 32 and 38)—

- (1) Shall be absent, except on the ground of illness, from the sittings of the Legislative Council or the Legislative Assembly, as the case may be, for a period of one month during any session without the leave of the Legislative Council or the Legislative Assembly, as the case may be; or
- (2) Shall have any direct or indirect pecuniary interest in any contract with the Government of the Colony for or on account of the public service otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons (N. 33. M. 32 (2)); or
- (3) Shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power; or

- (4) Shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power ; or
- (5) Shall become an insolvent or take advantage of any Law for the relief of insolvent debtors ; or
- (6) Shall be attainted of treason, or be sentenced to imprisonment without the option of a fine for a term of not less than twelve months ; or
- (7) Shall become of unsound mind ; or
- (8) Shall accept any office of profit under the Crown other than that of a Minister, or that of an officer of Our naval and military forces on retired or half-pay ;

his seat shall become vacant, and if any person under any of the disqualifications herein mentioned shall, whilst so disqualified, knowingly sit or vote as a Member of the said Council or Assembly, such person shall forfeit the sum of one hundred pounds, to be recovered by the Attorney-General for the benefit of the Treasury by action in the High Court ;

Saving of pensioners.—Provided that a person in receipt of pension from the Crown shall not be deemed to hold an office of profit under the Crown within the meaning of this section.

23. *Standing Rules and Orders.*—(1) The Legislative Council and Legislative Assembly in their first Session, and from time to time afterwards as there shall be occasion, shall each adopt Standing Rules and Orders, joint as well as otherwise, for the regulation and orderly conduct of their proceedings and the despatch of business, and for the order in which the said Council and Assembly shall confer, correspond, and communicate with each other, and for the passing, intituling, and numbering of Bills, and for the presentation of the same to the Governor for Our assent.

(2) All such Rules and Orders shall by the said Council and Assembly respectively be laid before the Governor in Council, and being by him approved shall become binding and of force :

(3) Provided that the Standing Rules and Orders of the Legislative Council as now subsisting shall, until altered, added to, or amended, be the Standing Rules and Orders of the Legislative Council and of the Legislative Assembly. (T. 31. N. 39.)

24. *Officers of Legislature.*—The salary of the President of the Legislative Council and of the Speaker of the Legislative Assembly shall be such as may be prescribed by any Law of the Colony ; and the Chief Clerk for the time being of the Legislative Council and of the Legislative Assembly shall respectively be removable from office only in accordance with a vote of the House of which he is an officer. (T. 32. N. 40.)

25. *Privileges, &c., of Members.*—(1) It shall be lawful for the Legislature of the Colony by any Law to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the Members thereof respectively :

Provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament of Our United Kingdom, or the Members thereof. (T. 33. N. 42.)

(2) Until the Legislature shall so define the privileges, immunities, and powers of its Members those which are now held, enjoyed, and exercised by the Members of the subsisting Legislative Council shall be held, enjoyed and exercised by the Members of the Legislative Council and Legislative Assembly. (M. 39 (2).)

LEGISLATION.

26. *Power to make Laws.*—(1) It shall be lawful for Us and Our successors, by and with the advice and consent of the Legislature, subject to the provisions of these Our Letters Patent, to make all Laws, to be entitled "Acts," which shall be required for the peace, order, and good government of the Colony (T. 36. (1) N. 5.):

(2) A Law passed by the Legislature may repeal or alter any of the provisions of these Our Letters Patent, save those contained in this section, and those contained in Section 28 (relating to the reservation of Bills), Sections 39-47 (relating to Native Administration), Section 48 (relating to the Crown Land

Agent), and Section 55 (relating to the Salary of the Governor), and may likewise repeal or alter any of the provisions of any Order in Our Privy Council extending to Southern Rhodesia other than provisions affecting any matter mentioned in this sub-section: (T. 36 (2) as modified in M. 41 (6).)

Provided however that no proposed Law for the constitution of a Legislative Council in pursuance of Section 2 of these Our Letters Patent shall repeal or alter any of the provisions relating to the Legislative Council contained in these Our Letters Patent, and such provisions shall not be repealed or altered save by a Law passed by both Houses of the Legislature, after the constitution of a Legislative Council as aforesaid: (New.)

Provided further that no proposed Law for the repeal or alteration of any such provisions of these Our Letters Patent as may be repealed or altered by the Legislature as aforesaid shall be valid unless it shall be affirmed by not less than two-thirds of the total number of Members of each House of the Legislature, or, pending the constitution of a Legislative Council, of the Legislative Assembly. (cf. M. 41 (6) proviso.)

(3) Any Law made in contravention of the limitations imposed by Sub-section 2 of this section shall to the extent of such contravention but not otherwise be and remain absolutely void and inoperative. (M. 41 (2).)

27. *Presentation of Laws for Governor's assent.*—When any Law has been passed by the Legislature it shall be presented for Our assent to the Governor, who shall declare according to his discretion, but subject to this Constitution and any instructions in that behalf given him, under Our Sign Manual and Signet, or through a Secretary of State, that he assents in Our name, or that he withholds assent, or that he reserves the Law for the signification of Our pleasure. (T. 38. N. 6.)

28. *Description of Bills to be reserved.*—Unless he shall have previously obtained Our instructions upon such Law through a Secretary of State, or unless such Law shall contain a clause suspending the operation thereof until the signification in the Colony of Our pleasure thereupon, the Governor shall reserve:— (T. 39.)

- (a) Any Law, save in respect of the supply of arms, ammunition, or liquor to natives, whereby natives may be subjected or made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable.
- (b) Any Law which may repeal alter or amend, or is in any way repugnant to or inconsistent with such provisions of these Our Letters Patent, as may under these Our Letters Patent be repealed or altered by the Legislature. (cf. M. 48 (c).)
- (c) Any Law constituting the Legislative Council passed in pursuance of Section 2 of these Our Letters Patent. (New.)
- (d) Any Law altering or amending the arrangements relating to the collection and allocation of mining revenues in force at the commencement of these Our Letters Patent under any existing Law of the Colony or otherwise, or any Law imposing any special rate tax or duty on minerals in or under land within the Colony. (New.)
- (e) Until legislation shall have come into force in Southern Rhodesia adopting, so far as may be applicable, the provisions of the law in force in Our United Kingdom relating to the Railway and Canal Commissioners and to the Rates Tribunal provided for by the Railways Act, 1921, any law dealing with railways within the Colony. (New.)

29. *Return of Bills by Governor to the Legislature.*—The Governor may return to the Legislative Council and Legislative Assembly any proposed Law so presented to him, and may transmit therewith any amendments which he may recommend, and the Legislative Council and Legislative Assembly may deal with the recommendation. (T. 40.)

30. *Assent to Laws and time from which they take effect.*—No Law passed by the Legislature shall take effect until either the Governor shall have assented thereto in Our name and on Our behalf, and shall have signed the same in token of such assent, or until We shall have given Our assent thereto by Our Order in Our Privy Council. (M. 46.)

31. *Disallowance by the King.*—It shall be lawful for Us, Our heirs, and successors, to disallow any Law within $\frac{1}{2}$ one year from the date of the Governor's assent thereto, and such disallowance, on being made known by the Governor by Speech or Message to the Legislative Council and the Legislative Assembly, or by Proclamation in the Gazette, shall annul the Law from the day when the disallowance is so made known. (T. 41. N. 7.) (cf. M. 47.)

32. *Signification of King's pleasure on Bills reserved.*—A proposed Law reserved for Our pleasure shall not have any force unless and until, within $\frac{1}{2}$ one year from the day on which it was presented to the Governor for Our assent, the Governor makes known, by Speech or Message to the Legislative Council and the Legislative Assembly, or by Proclamation in the Gazette, that it has received Our assent. (T. 42.) (cf. M. 49.)

33. *Record to be made of King's assent to Bills reserved.*—Whenever any Law has been reserved for the signification of Our pleasure thereon, and the Governor shall signify, either by Speech or Message to the Legislature or by Proclamation in the Gazette, that such Law has been laid before Us in Our Privy Council, and that We have been pleased to assent to the same, an entry shall be made in the journals of the Legislative Council and the Legislative Assembly of every such Speech, Message or Proclamation, and a duplicate thereof duly attested shall be delivered to the proper officer, to be kept amongst the records of the Colony. (T. 43.)

34. *Laws to be printed in Gazette.*—The Governor shall cause every Law to which he shall have assented in Our name or to which We shall have given Our assent as aforesaid to be printed in the Gazette for general information. (T. 44 as modified in M. 51.)

35. *Copies of Laws to be enrolled.*—As soon as may be after any Law shall have been assented to in Our name by the Governor or, having been reserved for the signification of Our pleasure, Our assent thereto shall, in the manner aforesaid, have been signified by the Governor, the Clerk of the Legislative Assembly shall cause a fair copy of such Law signed by the Governor to be enrolled on record in the office of the Registrar of the High Court, and such copy shall be conclusive evidence as to the provisions of every such Law: provided, however, that the validity of any such Law shall not depend upon the enrolment thereof. (T. 45.)

36. *Disallowance to be notified in Gazette and certificates of disallowance to be enrolled.*—Whenever any Law assented to by the Governor in Our name as aforesaid has been disallowed by Us, the Governor shall cause notice of such disallowance to be published in the Gazette and a certificate of such disallowance, certified under the Public Seal of the Colony, to be enrolled in the office of the Registrar of the High Court. (T. 46 as modified in M. 53.)

THE MINISTRY.

37. *Ministers.*—(1) The Governor may appoint such officers as he thinks fit, not exceeding six in number, to be Ministers, one of whom he shall designate as Head of the Ministry, who shall be styled the Premier, and may assign to each Minister the Headship of such Department or Departments as he shall think fit.

(2) Appointments to the office of Minister shall be made by the Governor in Our name, and such offices shall be held during Our pleasure.

(3) After the first general election of Members of the Legislative Assembly no Minister shall hold office for a longer period than four months unless he is or becomes a Member of either House of the Legislature.

(4) No Minister shall vacate his seat in the Legislative Council or Legislative Assembly by reason of his appointment to or retention of an office in the Ministry.

(5) Every Minister shall have the right to sit and speak both in the Legislative Council and Legislative Assembly, but shall vote only in the House of which he is a Member. (T. 47 as modified in M. 54.) (cf. South Africa Act, 1909, Sec. 14.)

JUDGES.

38. *Judges' appointment, tenure and remuneration.*—The Judges of the High Court—

- (1) Shall be appointed by the Governor in Council;
- (2) Shall not be removed except by the Governor in Council on an Address from the Legislative Council and Legislative Assembly in the same Session praying for such removal on the ground of proved misbehaviour or incapacity;
- (3) Shall receive such remuneration as shall from time to time be prescribed by Law, but the remuneration of a Judge shall not be diminished during his tenure of office, and the remuneration of the present Judges shall not be diminished, and their commissions shall continue as heretofore. (T. 48.)

NATIVE ADMINISTRATION.

39. *Native Department and Appointment, etc., of officers of Department.*—(1) There shall be a Native Department, the permanent head of which shall be appointed by the Governor in Council with the approval of the High Commissioner, and all Chief Native Commissioners, Superintendents of Natives, Native Commissioners and Assistant Native Commissioners, or any officers appointed to exercise the functions now exercised by the aforesaid officers or any of them shall be appointed in the like manner and subject to the like approval, and the said officers shall continue to perform the duties at present assigned to them subject to any alterations or additions which the Governor in Council may from time to time, with the approval of the High Commissioner, prescribe by notice in the Gazette. (cf. S.R. 79 (1).)

(2) The salaries of the officers mentioned in the preceding sub-section shall be fixed by the Governor in Council with the approval of the High Commissioner, and shall not be increased or diminished without his approval. (S.R. 79 (2) and 71 (2).)

(3) The officers mentioned in this section may at any time be removed from office by the Governor in Council, with the approval of the High Commissioner, but not otherwise. (S.R. 72.)

40. *Suspension and removal of officers of Native Department.*—(1) The Governor in Council may, and if so requested by the High Commissioner shall, suspend any of the officers referred to in the last preceding section for misconduct; but shall first cause him to be furnished with a written statement of the acts of misconduct alleged against him, and cause him to be called on to state in writing by a given day (which shall allow a reasonable interval) any grounds upon which he relies to exculpate himself.

(2) If the suspension takes place, the Governor shall forthwith transmit a full report of the matter, and the proofs of the alleged misconduct to the High Commissioner, who may confirm or disallow the suspension.

(3) If the suspension is confirmed, the suspended officer is thereby removed from office; if it is disallowed, the suspended officer is thereby restored to office, and is entitled to any salary that has been withheld during his suspension.

(4) If the High Commissioner is of opinion that the officer deserves punishment, but not the extreme penalty of removal from office, he may, instead of disallowing the suspension, direct that the officer be restored to office, but be required to serve at a reduced salary, either permanently or for a stated period; or that a specific sum be deducted from any salary due or to become due to the officer; or that he be transferred to a lower office. (S.R. 75.)

41. *Restrictive Regulations, etc., as regards natives.*—No conditions, disabilities or restrictions which do not equally apply to persons of European descent shall, without the previous consent of the High Commissioner, be imposed upon natives (save in respect of the supply of arms, ammunition and liquor), by any Proclamation, Regulation or other instrument issued under the provisions of any Law, unless such conditions, disabilities, or restrictions shall have been explicitly prescribed, defined and limited in such Law. (cf. S.R. 80.)

42. *Native Reserves.*—The Southern Rhodesia Order in Council, 1920, whereby the lands known as the Native Reserves were vested in the High Commissioner and set apart for the sole and exclusive use of the native inhabitants of Southern Rhodesia, shall continue in full force and effect as if it formed part of these Our Letters Patent, and no portion of the land comprised within the said Reserves shall be alienated except for the purposes authorized by the said Order, and then only in exchange for other suitable land. (New. See Report § 64 (3).)

43. *Acquisition of land by natives.*—A native may acquire, hold, encumber and dispose of land on the same conditions as a person who is not a native, but no contract for encumbering or alienating land the property of a native shall be valid unless the contract is made in the presence of a Magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the native understands the transaction. (S.R. 83.)

44. *Information as to native affairs to be given to High Commissioner.*—The Governor shall furnish to the High Commissioner any information relating to native affairs which the High Commissioner may request. (New.)

45. *Reference of questions relating to natives to a Judge.*—The Governor in Council shall, if so requested by the High Commissioner, refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such enquiry as he thinks fit, and shall report to the Governor in Council the result of such enquiry. The Governor shall transmit such report to the High Commissioner with a statement of the action which the Governor in Council proposes to take in the matter. (S.R. 86.)

46. *Offences by chiefs or tribes.*—In case of a revolt against the Government, or other misconduct committed by a native chief or tribe, the Governor in Council may, with the approval of the High Commissioner, impose a reasonable fine upon the offender. (S.R. 88.)

47. *Native Councils.*—(1) It shall be lawful for the Governor in Council, subject to the approval of the High Commissioner, at any time after the commencement of these Our Letters Patent, to establish by Proclamation in any Native Reserve or Reserves such Council or Councils of indigenous natives representative of the local chiefs and other native residents as may seem to him expedient, for the discussion from time to time of any matters upon which, as being of direct interest or concern to the native population generally or to any portion thereof, he may desire to ascertain, or they may desire to submit, their views; and, subject to the like approval, to make regulations for the constitution of such Council or Councils, for the appointment of the places and times of meeting, for the manner of conducting the proceedings, and for all other matters incidental or properly appertaining to the establishment and periodical meetings of such Council or Councils, including, if he think fit, the occasional or regular meeting of any two or greater number of such Councils in joint session.

(2) It shall also be lawful for the Governor in Council, subject to the like approval, to make regulations conferring on any such Council such powers of management in connection with local matters affecting the indigenous natives as can in his opinion be safely and satisfactorily undertaken by them, and by such regulations or by any subsequent regulations to make all such provisions as may be necessary in order to give effect to such powers. (New, cf. **Union of South Africa Act, 23 of 1920.**)

CROWN LAND AGENT.

48. *Appointment, etc., of Crown Land Agent.*—(1) The Secretary of State shall appoint an officer who shall be called the Crown Land Agent and shall fix the amount of his salary and of the salaries of any persons employed under him for the purposes of this section. The Crown Land Agent shall be assisted by an Advisory Board consisting of such persons as the Secretary of State shall appoint to represent the various interests concerned in the disposal of and revenue produced by all rights and interests in lands within the Colony to which this section

relates. The said Board shall consider and advise upon all matters which may be referred to it by the Crown Land Agent, but the decision of all such matters shall be vested exclusively in the Crown Land Agent.

(2) *Rights of British South Africa Company in relation to lands alienated before commencement of Letters Patent transferred to Crown Land Agent.*—All rights of the British South Africa Company in or in relation to any lands within the Colony which shall, before the commencement of these Our Letters Patent, have been alienated by the Company, whether by grant or by permit of occupation or by lease giving option of purchase or by any other instrument whatsoever, but for which full payment shall not have been made by the purchaser, shall, save and except any rights reserved by any such instrument to the Company with regard to minerals, vest in the Crown Land Agent, and he shall have the right to receive in Our name and on Our behalf all purchase money remaining unpaid, all rents of any description payable, and all interest on mortgage-bonds held by the Company as security for unpaid purchase money, in respect of any such lands, and all other revenue whatsoever that may be derived therefrom, and it shall be lawful for him to exercise and perform in Our name and in Our behalf all such powers and functions with regard to such lands and the instruments relating thereto as might have been exercised and performed by the Company if these Our Letters Patent had not been made.

(3) *Unalienated lands vested in Crown Land Agent for sale or other disposition.*—All lands and rights or interests in any lands within the Colony other than the Native Reserves which, at the commencement of these Our Letters Patent, are unalienated and any lands and rights or interests in any lands reverting to Us under any instrument referred to in the preceding sub-section shall vest in the Crown Land Agent on trust to hold the same, and any revenues accruing therefrom, in Our name and on Our behalf subject to the rights of the Company therein with regard to minerals, and it shall be lawful for him, so long as any part of the debt due to the Company on account of its administrative deficit remains unpaid, from time to time to sell or otherwise dispose of so much thereof as may be practicable at such prices as may in all the circumstances be, in his opinion, fair and reasonable, and on any such terms and conditions and subject to any such reservations in the public interest or in the interest of natives established thereon, as have heretofore been found suitable, and, subject to a due regard for the public interest, he shall use all reasonable despatch in so selling or disposing of such lands.

(4) *Exemption from rates and taxes.*—It shall not be lawful for the Legislative Assembly to pass any law, vote or resolution imposing or authorising any rate, tax, or duty on any unalienated lands or on any revenues to which this section applies, so long as the said section shall continue in operation.

(5) *Disposal of revenue from land by Crown Land Agent.*—The Crown Land Agent shall pay all revenue accruing under this section in respect of lands within the Colony into an account to be called the Crown Lands Account, and shall thereout first pay all expenses incurred in connection with the working of his office, including all salaries referred to in sub-section (1) of this section, and with the management and administration of lands alienated before the commencement of these Our Letters Patent and the collection of any such revenue as aforesaid, and with the sale or disposal of any lands hereafter to be sold or disposed of as aforesaid, and shall pay over the balance standing to the credit of the said Account at the end of each quarter to the Company.

(6) *Lands remaining unalienated after debt to Company is paid vested in the Governor.*—When the Secretary of State shall have certified by notice published in the London Gazette that the said debt due to the Company has been extinguished this section shall cease to have any force or effect, and thereafter all rights, interests and revenues to Us belonging or accruing in respect of lands within the Colony, other than the Native Reserves, shall vest in the Governor.
(New.)

GENERAL PROVISIONS.

49.—*Consolidated Revenue Fund.*—All taxes, imposts, rates and duties, and all territorial, casual and other revenues of the Crown from whatever source arising within the Colony over which the Legislative Council and Legislative Assembly have power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned. (T. 53. N. 46.)

50. *Costs of collection and management of Fund.*—(1) The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management and receipt thereof.

(2) All such costs, charges and expenses shall be subject to be reviewed and audited in such manner as may from time to time be directed by any Law passed by the Legislature. (T. 54. N. 47.)

51. *Repayment of any monies provided by the Treasury for payment of compensation to the British South Africa Company in respect of public works and buildings.*—In the event of any monies being provided by the Lords Commissioners of Our Treasury for the payment of compensation to the British South Africa Company in respect of any buildings or works belonging to the Company and used exclusively or mainly for administrative or public purposes which may be taken over by Us in accordance with the provisions of Clause 33 of the said Company's Charter of Incorporation, dated the 29th day of October, 1889, for the public purposes of the Colony after the commencement of these Our Letters Patent, the Consolidated Revenue Fund shall be charged with all such monies, together with interest thereon, at a rate to be fixed by the said Lords Commissioners of Our Treasury, and all such monies and interest as aforesaid shall be fully paid and discharged not later than the expiration of twelve months from the commencement of these Our Letters Patent. (New.)

52. *Appropriation and Taxation Bills to originate in the Legislative Assembly.*—All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly. (T. 55. N. 48.)

53. *Powers of Legislative Council thereon.*—The Legislative Council may not alter any Money Bill passed by the Legislative Assembly, but may return to the Legislative Assembly any such Bill and may transmit therewith any amendments which they recommend, and the Legislative Assembly shall consider and deal with such recommendation, and thereafter the Legislative Council may either accept or reject such Bill but may not alter it. (T. 56 as modified in M. 61. N. 49.)

54. *Manner in which the Public Revenue shall be appropriated to the Public Service.*—(1) It shall not be lawful for the Legislative Assembly to pass any Law, vote, or resolution which shall have the effect of appropriating any part of the Consolidated Revenue Fund or of imposing, altering, or repealing any rate, tax, or duty unless such Law, vote, or resolution has been first recommended to the Assembly by Message of the Governor during the session in which it is proposed.

(2) No part of the Consolidated Revenue Fund shall be issued except in pursuance of a Warrant under the hand of the Governor directed to the Treasurer.

55. *Salary of Governor.*—(1) There shall be payable to Us, in every year, out of the Consolidated Revenue Fund, for the salary of the Governor the sum of four thousand pounds. (South Africa Act, 1909, sec. 10.)

(2) The salary of the Governor shall not be altered during his continuance in office. (T. 57 as modified in M. 62. N. 50 and 51.)

56. *Public officers appointment and removal, etc.*—All persons in the Public Service of Southern Rhodesia at the commencement of these Our Letters Patent shall become public officers of the Colony, and the appointment to, and removal from, all public offices under the Government of the Colony hereafter to become

vacant or to be created, save those of Ministers and Officers of the Native Department mentioned in Section 39 of these Our Letters Patent, shall, subject to any Law hereafter in force in the Colony, be vested in the Governor in Council: Provided that no public officer in the Colony who shall have been appointed to his office before the date of the commencement of these Our Letters Patent shall be removed from his office or have his emoluments reduced save in accordance with the Law, regulations or conditions governing his services at the date of these Our Letters Patent. (T. 59 as modified in M. 64. N. 53 and 54.)

57. Pensions and Gratuities.—(1) All pensions and gratuities which have been granted to persons who have retired from the Public Service of Southern Rhodesia before the date of the commencement of these Our Letters Patent shall be governed by the Law or rules under which they were granted.

(2) A public officer who shall have been appointed to his office in Southern Rhodesia before the date of the commencement of these Our Letters Patent shall be entitled to have his claim to pension or gratuity governed by the Law or rules which now regulate the grant of pensions and gratuities in Southern Rhodesia, unless he shall be entitled under any Law or rules which may hereafter be substituted for the same, to exercise an option to have his said claim governed by such substituted Law or rules, and duly exercises the said option.

(3) All pensions and gratuities which have been or may be hereafter granted in accordance with the Law or rules which at the date of such grant regulated or regulate the grant of pensions and gratuities in Southern Rhodesia, to persons who have retired or shall retire from the Public Service of Southern Rhodesia, or whose offices in Southern Rhodesia have been or shall be abolished, shall be charged upon and paid out of the Consolidated Revenue Fund. (M. 65.)

58. Powers of High Commissioner.—From and after the commencement of these Our Letters Patent the High Commissioner shall exercise only such power, jurisdiction, or authority within the Colony as may be granted or reserved to him by these Our Letters Patent. (New.)

59. Powers of Administrator, how to be exercised.—(1) Where, under any Law of the Colony, any power, jurisdiction or authority is at the commencement of these Our Letters Patent exercised by the Administrator, such power, jurisdiction or authority shall be exercised by the Governor in Council, and where, under any such Law, any power, jurisdiction or authority has been conferred on any Member of the existing Executive Council of Southern Rhodesia, such power, jurisdiction or authority shall be exercised by the Minister to whom it shall be assigned by the Governor in Council. (T. 61 (1).)

(2) Meaning of "Legislative Council" in existing Laws.—Where in any existing Law the words "Legislative Council" occur, they shall, unless the context otherwise indicates, and save in so far as the Law or any provision thereof deals with any matter mentioned in Section 26 (2) of these Our Letters Patent, be read as if they were "Legislative Council and Legislative Assembly." (T. 61 (2) as modified in M. 66 (4). N. 41.)

60. Power to amend by Proclamation.—The Governor may, by Proclamation in the Gazette, at any time within one year from the date of the commencement of these Our Letters Patent, and provided that Our approval be previously signified to him through a Secretary of State, vary, annul, or add to any of the provisions of these Our Letters Patent in order to carry out the purposes of the same, and may provide for any other matter necessary in order to carry into effect the provisions thereof. (T. 62 as modified in M. 67.)

61. Power reserved to His Majesty to revoke, alter or amend certain sections of the present Letters Patent.—We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter or amend Sections 26, 28, 39-48 and 55 of these Our Letters Patent as to Us or Them shall seem meet. (M. 68.)

62. *Definitions.*—In these Our Letters Patent, unless the contrary intention appears (T. 63. M. 69.)—

“ Existing Electoral Laws ” means such provisions of any Proclamations issued by the High Commissioner and of any Ordinances passed by the subsisting Legislative Council as, being in force at the date of the commencement of these Our Letters Patent, shall regulate the qualification and disqualification of persons as voters or candidates for the subsisting Legislative Council, the constitution of electoral districts, the registration of voters, the preparation of lists of voters, the nomination of candidates, corrupt and illegal practices, the conduct of elections, the hearing of election petitions and all other matters connected with the election of Members of the subsisting Legislative Council. (New.)

“ Gazette ” means the Official Gazette of Southern Rhodesia.

“ Governor ” means the Officer for the time being Administering the Government of the Colony.

“ Governor in Council ” means the Governor acting by and with the advice of the Executive Council.

“ High Commissioner ” means Our High Commissioner for the time being for South Africa.

“ Month ” means calendar month.

“ Legislative Council ” means any Legislative Council which may hereafter be constituted by any Law passed in pursuance of Section 2 of these Our Letters Patent. (New.)

“ President ” means the Member of such Legislative Council who shall be appointed or elected under the provisions of such Law to preside at the meetings of the said Council. (New.)

“ Speaker ” includes Deputy Speaker.

“ Secretary of State ” means one of Our Principal Secretaries of State.

63. *Commencement of Letters Patent.*—(1) These Our Letters Patent shall commence and come into operation on a day to be fixed by the High Commissioner by Proclamation in the Gazette and thereafter shall be proclaimed at such place or places within the Colony as the Governor shall think fit. (T. 64.)

(2) *Existing Law, etc., to continue in force save as repugnant to the present Letters Patent.*—All Charters, Orders in Council, Ordinances, Proclamations and Laws which at the date of the commencement of these Our Letters Patent are in force within the Colony shall, until duly repealed or varied, continue to be of the same force, authority and effect as if these Our Letters Patent had not been made, except in so far as the same are repugnant to these Our Letters Patent, in which case they are to that extent hereby amended and repealed. (N. 4.)

64. *Short Title.*—These Our Letters Patent may be cited as “ The Southern Rhodesia Constitution Letters Patent, 192 .” (T. 65.)

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster this day of in the Year of Our Reign.

By Warrant under the King’s Sign Manual.

ENCLOSURE No. III.

DRAFT.

SOUTHERN RHODESIA.

LETTERS PATENT passed under the Great Seal of the United Kingdom constituting the Office of Governor.

WHEREAS by Letters Patent bearing even date herewith and entitled the Southern Rhodesia Constitution Letters Patent 192, provision has been made for the constitution of Responsible Government in Our Colony of Southern Rhodesia :

And whereas We are minded to make provision for the constitution of the office of Governor and Commander-in-Chief of Our said Colony :

NOW know Ye that We do declare Our will and pleasure to be as follows :—

1. *Appointment of Governor.*—There shall be a Governor and Commander-in-Chief in and over Our Colony of Southern Rhodesia, and appointments to the said Office shall be made by Commission under Our Sign Manual and Signet.

2. *Governor's powers and authorities.*—We do hereby authorise, empower and command Our said Governor and Commander-in-Chief (hereinafter called the Governor) to do and execute all things that belong to the said Office of Governor according to the tenor of these and any other Our Letters Patent, having effect within the Colony, and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony.

3. *Publication of Governor's Commission.*—Every person appointed to fill the Office of Governor shall, with all due solemnity, before entering on any duties of his Office, cause the Commission appointing him to be Governor to be read and published in the presence of the Senior Judge of the High Court or of some other Judge of the said Court, and such of the Members of the Executive Council of the Colony who can conveniently attend, which being done, he shall then and there take before them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the thirty-first and thirty-second years of the reign of Her Majesty Queen Victoria intituled “An Act to amend the Law relating to Promissory Oaths”; and likewise the usual Oath for the due execution of his Office and for the due and impartial administration of justice, which Oaths the said Senior Judge or Judge is hereby required to administer.

4. *Public Seal.*—The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the said Seal.

5. *Executive Council.*—There shall be an Executive Council in and for the Colony, and the said Council shall consist of such persons being Ministers or other persons as the Governor shall, from time to time in Our name and on Our behalf, but subject to any Law of the Colony, appoint under the Public Seal of the Colony to be Members thereof. Subject to any such Law the Members of the Executive Council shall hold office during Our pleasure; provided that the Members of the Executive Council existing at the commencement of these Our Letters Patent may, if the Governor thinks fit, continue to hold office until the appointment of Ministers.

6. *Grant of Lands.*—The Governor may, in Our name and on Our behalf, make and execute under the Public Seal grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us other than the lands with regard to the grant and disposition of which provision is made under the Southern Rhodesia Constitution Letters Patent 192.

7. *Appointment of Officers.*—Subject to the Southern Rhodesia Constitution Letters Patent 192, the Governor may constitute and appoint in Our name and on Our behalf all such officers in the Colony as may be lawfully constituted or appointed by Us.

8. *Suspension or removal from Office.*—Subject to the said Letters Patent the Governor may, so far as We Ourselves lawfully may, upon sufficient cause to him appearing, remove from his Office, or suspend from the exercise of the same, any person holding any office or place within the Colony under or by virtue of any Commission or Warrant or other Instrument granted, or which may be granted by Us or in Our name or under Our authority, or by any other mode of appointment.

9. *Grant of pardon. Remission of fines. Proviso. Banishment. Exception. Political Offences.*—When any crime or offence has been committed within the Colony, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted of any such crime or offence in any Court, or before any Judge or Magistrate, within the Colony, a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as he may think fit, and may remit any fines, penalties or forfeitures due or accrued to Us: Provided always, that if the offender be a British subject, or a British subject by naturalisation in any part of Our Dominions, the Governor shall in no case, except where the offence has been of a political nature unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself or be removed from the Colony.

10. *Succession to the Government in the event of the death, etc., or absence of the Governor from South Africa.*—In the event of the death, incapacity, removal or absence from South Africa of Our said Governor, or of his being from any cause prevented from acting in the duties of his office, all and every the powers and authorities granted to him shall, until Our further pleasure is signified therein, be vested in such person as We may appoint under Our Sign Manual and Signet, and such person shall have and exercise all such powers and authorities until Our further pleasure shall be signified: Provided that no such powers or authorities shall vest in such person until he shall have taken the oaths hereinbefore directed to be taken by the Governor of the Colony, and in the manner herein prescribed.

11. *Temporary absence of the Governor.*—Whenever and so often as the Governor shall be temporarily absent from the Colony in pursuance of any Instructions from Us through One of Our Principal Secretaries of State, or shall be absent from the Colony for the purpose of visiting Our High Commissioner for South Africa or the Governor-General or Officer Administering the Government of Our Union of South Africa for a period not exceeding one month, then and in every such case the Governor may continue to exercise all and every the powers vested in him as fully as if he were residing within the Colony.

12. *Governor may appoint a Deputy during his temporary absence from seat of Government or from the Colony.*—In the event of the Governor having occasion to be temporarily absent for a short period from the seat of Government or from the Colony, he may, in every such case, by an Instrument under the Public Seal of the Colony, constitute and appoint any person to be his deputy within the Colony, or any part thereof, during such temporary absence, and in that capacity to exercise, perform and execute for and on behalf of the Governor during such absence, but no longer, all such powers and authorities vested in the Governor, as shall in and by such Instrument be specified and limited, but no others. Every such Deputy shall conform to and observe all such Instructions as the Governor shall from time to time address to him for his guidance: provided nevertheless,

that by the appointment of a Deputy, as aforesaid, the power and authority of the Governor shall not be abridged, altered or in any way affected, otherwise than We may at any time hereafter think proper to direct:

Provided further that, if any such Deputy shall have been duly appointed, it shall not be necessary during the continuance in office of such Deputy for any person to assume the Government of the Colony as Administrator thereof.

13. Officers and others to obey the Governor.—And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of the Colony, to be obedient, aiding and assisting unto the Governor, or to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Colony.

14. Term "*the Governor*" explained.—In the construction of these Our Letters Patent, the term "*the Governor*," unless inconsistent with the context, shall include every person for the time being administering the Government of the Colony.

15. Power reserved to His Majesty to revoke, alter or amend present Letters Patent.—And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter or amend these Our Letters Patent, as to Us or them shall seem fit.

16. Proclamation of Letters Patent.—And We do direct and enjoin that these Our Letters Patent shall commence and come into operation on a day to be fixed by the High Commissioner by Proclamation in the Southern Rhodesia Government Gazette and thereafter shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit.

In witness whereof We have caused these Our Letters to be made Patent.

Witness Ourself at this day of
in the year of Our Reign.

By Warrant under the King's Sign Manual.

ENCLOSURE No. IV.

DRAFT.

INSTRUCTIONS passed under the Royal Sign Manual and Signet, to the Governor and Commander-in-Chief of the Colony of Southern Rhodesia.

Instructions to Our Governor and Commander-in-Chief in and over Our Colony of Southern Rhodesia, or to the officer for the time being administering the Government of Our said Colony.

Given at Our Court at St. James, this day of in
the year of Our Reign.

WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Southern Rhodesia (therein and hereinafter called the Colony) :

Recites Letters Patent, constituting the office of Governor.—And whereas We have by the said Letters Patent authorised, empowered, and commanded the Governor to do and execute all things that belong to his said Office, according to the tenor of the said Letters Patent and any other Our Letters Patent having effect within the Colony, and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony.

NOW, therefore. We do hereby direct and enjoin and declare Our Will and Pleasure to be as follows :—

Term "Governor."—I. In these Our Instructions, unless inconsistent with the context, the term "Governor" shall include every person for the time being administering the Government of the Colony.

II. Oaths to be administered by Governor.—The Governor may, whenever he thinks fit, require any person in the public service to take the Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Law in force in the Colony. The Governor is to administer such Oaths or cause them to be administered by some Public Officer of the Colony.

III. Governor to communicate instructions to Executive Council.—The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as he shall find convenient for Our service to impart to them.

IV. Executive Council not to proceed to business unless summoned by the Governor's authority. Quorum.—The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Governor, nor unless two Members at the least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

V. Governor to preside, and, in his absence, such Member as he may appoint, or the Senior Member, to preside. Seniority of Members.—The Governor shall attend and preside at the meetings of the Executive Council unless prevented by some

necessary or reasonable cause, and in his absence such Member as may be appointed by him in that behalf, or in the absence of such Member the senior Member of the Executive Council actually present shall preside. The seniority of the Members of the said Council shall be prescribed by the Governor.

VI. Governor to take advice of Executive Council.—In the execution of the powers and authorities vested in him, the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, with the reasons for his so acting.

In any such case it shall be competent to any Member of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

VII. Description of laws not to be assented to.—The Governor shall not assent in Our name to any law of any of the following classes:—

1. Any law for divorce.
2. Any law whereby any grant of land or money or other donation or gratuity may be made to himself.
3. Any law affecting the currency of the Colony.
4. Any law imposing differential duties.
5. Any law the provisions of which shall appear inconsistent with obligations imposed on Us by Treaty.
6. Any law of an extraordinary nature and importance whereby Our prerogative or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies may be prejudiced.
7. Any law containing provisions to which Our assent has been once refused or which have been disallowed by Us.

Unless he shall have previously obtained Our Instructions upon such law through one of Our Principal Secretaries of State, or unless such law shall contain a clause suspending the operation thereof until the signification in the Colony of Our pleasure thereupon.

VIII. Regulation of power of pardon in capital cases. Judge's Report to be laid before Executive Council. Governor to consult Executive Council in such cases. May exercise his own judgment. Entering his reasons on the Council Minutes.—Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor shall consult the Executive Council upon the case of such offender, submitting to the Council any Report that may have been made by the Judge who tried the case; and whenever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor shall not pardon or reprieve any such offender unless it shall appear to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering nevertheless, on the Minutes of the Executive Council, a Minute of his reasons, at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

IX. Officers to be appointed during pleasure.—All commissions granted by the Governor to any persons to be Officers in the Colony shall, unless otherwise provided by law, be granted during pleasure only.

X. Governor not to quit the Colony. Temporary leave of absence.—Except in accordance with the provisions of any Letters Patent or of any Commission under Our Sign Manual and Signet the Governor shall not, upon any pretence

whatever, quit the Colony, without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting the High Commissioner for South Africa or the Governor-General or Officer Administering the Government of Our Union of South Africa, for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Colony.

XI. *Governor's absence from the Colony.*—The temporary absence of the Governor for any period not exceeding one month shall not, if he have previously informed the Executive Council in writing of his intended absence, and if he have duly appointed a Deputy in accordance with the above recited Letters Patent, nor shall any extension of such period sanctioned by one of Our Principal Secretaries of State and not exceeding fourteen days, be deemed absence from the Colony within the meaning of the said Letters Patent.

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